

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A. BADHARUDEEN

TUESDAY, THE 25<sup>TH</sup> DAY OF JUNE 2024 / 4TH ASHADHA, 1946

CRL.MC NO. 4776 OF 2024

AGAINST THE ORDER DATED 15.03.2024 IN CRL.M.P.NO.712/2024 IN CC  
NO.629 OF 2019 OF JUDICIAL MAGISTRATE OF FIRST CLASS-I, ALUVA

PETITIONER/ACCUSED NO.1:

JESMON JOY KARIPPERY,  
AGED 41 YEARS, S/O. JOY K.A.,  
KARIPPERY HOUSE,  
PRA LANE, NEAR CARMEL HOSPITAL,  
KEEZHMADU VILLAGE, ALUVA TALUK,  
ALUVA, PIN-683 105.

BY ADVS.  
K.R.VINOD  
M.S.LETHA  
NABIL KHADER  
RAHUL.S

RESPONDENTS/COMPLAINANT:

- 1 STATE OF KERALA  
REPRESENTED BY PUBLIC PROSECUTOR,  
HIGH COURT OF KERALA, PIN-682 031.
- 2 THE REGIONAL PASSPORT OFFICER,  
MOOSA VAIDYAR MEMORIAL BUILDING,  
PERIYAR NAGAR, ALUVA,  
KERALA, PIN-683 101.
- R1 SRI.RENJIT GEORGE, SENIOR PUBLIC PROSECUTOR
- R2 ADV.T.C.KRISHNA, SENIOR PANEL COUNSEL

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON  
25.06.2024, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**'C.R.'**

**ORDER**

**Dated this the 25<sup>th</sup> day of June, 2024**

Annexure A2 order in CMP No.712/2024 in C.C. No.629/2019 passed by the Judicial First Class Magistrate-I, Aluva dated 15.03.2024 is the subject matter of this Crl.M.C., whereby the petitioner impugns conditions imposed in the order while granting permission to renew the passport.

2. Heard the learned counsel for the petitioner, the learned Public Prosecutor and the learned Senior Panel Counsel appearing for the 2<sup>nd</sup> respondent.

3. It is argued by the learned counsel for the petitioner that the conditions imposed by the trial court as per the impugned order are onerous and unwarranted, while granting permission to renew the passport, though those conditions can be considered while granting permission to go abroad. Therefore, the conditions would require interference.

4. The learned Public Prosecutor also submitted that the conditions imposed while granting permission to renew the passport are onerous. The learned Senior Panel Counsel appearing for the 2<sup>nd</sup> respondent, Regional Passport Officer, submitted that in this matter, renewal of the passport does not arise, but re-issuance of the passport is the required process.

5. On perusal of the order, the learned Magistrate imposed the following conditions while allowing permission to renew the passport:-

1. The petitioner shall execute a bond for Rs.30,000/- with two solvent sureties each for the like sum.
2. The petitioner shall furnish a cash security of Rs.3,000/-.
3. The petitioner shall produce a photocopy of the passport attested duly by himself and one witness upon obtaining the passport within one week of receipt of the same.
4. The petitioner shall ensure that the trial of the case is not delayed or protracted on account of his absence.

5. The petitioner shall appear before the court as and when required to do so.

6. The petitioner shall file affidavit to the effect that he will be duly represented by counsel holding vakalath and that he will not dispute his identity during trial.

6. Since prayer is for re-issuance/renewal of the passport, it seems that the conditions imposed by the learned Magistrate for the said purpose are onerous and unnecessary. When an accused seeks permission to renew his passport without permission to go abroad, in an appropriate case, the court can grant the relief sought to renew the passport for which onerous conditions are not necessary. Conditions to secure the presence of the accused for trial could very well be imposed while granting permission to the accused to go abroad during pendency of the criminal case. Therefore, the conditions in Annexure A2 are set aside and cancelled. Accordingly, the 2<sup>nd</sup> respondent is directed to consider the re-issuance of the passport as per GSR 570(E).

It is specifically made clear that the petitioner shall seek permission of the Magistrate Court, if he wants to go abroad and at this stage, the learned Magistrate is at liberty to impose necessary conditions, if permission will be granted to go abroad which are not so onerous, to ensure his return to India as per law, so as to finalise the trial.

Sd/-  
**A. BADHARUDEEN**  
**JUDGE**

bpr

APPENDIX OF CRL.MC 4776/2024

PETITIONER'S ANNEXURES

Annexure A1                    THE COPY OF THE CRL.M.P. NO.712/2024 IN  
C.C NO. 629/2019 BEFORE THE HON'BLE  
JUDICIAL FIRST CLASS MAGISTRATE COURT  
NO.I, ALUVA DATED 17.02.2024

Annexure A2                    THE CERTIFIED COPY OF ORDER IN  
CRL.M.P.NO.712/2024IN C.C NO. 629/2019  
BEFORE THE HON'BLE JUDICIAL FIRST CLASS  
MAGISTRATE COURT NO.I, ALUVA DATED  
15.03.2024